

GOVERNMENT OF SIKKIM GAZETTE

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ELECTION DEPARTMENT, GANGTOK

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Dated: Gangtok, the 1stJuly, 2015

Notification No. 56/2015/PPS – II dated 26th June, 2015 of the Election Commission of India, Nirvachan Sadan, New Delhi is hereby re-published for general information.

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Dehli – 110001

Dated: 26th June, 2015
5 Asadha, 1937 (Saka)

NOTIFICATION

In exercise of the powers conferred by Article 324 of the Constitution of India read with Rules 5 and 10 of the Conduct of Elections Rules, 1961, the Election Commission of India hereby makes the following Order to further amend the Election Symbols (Reservation and Allotment) Order, 1968, namely:-

1. Short title and commencement

- (i) This Order shall be called the Election Symbols (Reservation and Allotment) (Amendment) Order, 2015.
- (ii) It shall come into force with immediate effect.

2. Substitution of paragraph 10B

In the Election Symbols (Reservation and Allotment) Order, 1968, for the existing paragraph 10B, the following paragraph shall be substituted, namely:-

"10B - Concession to candidates set up by registered (unrecognized) parties and to unrecognized parties which were earlier recognized parties more than 6 years back.

"Subject to the provisions of clause(b) of sub-paragraph (3) of paragraph 12, the candidates set up by a registered unrecognized political party at the general election to the Legislative Assembly of a State or to the House of the People, may be allotted a common symbol, subject to fulfilment of the following conditions :

(A) At a general election to the Legislative Assembly-

- (i) The party sets up candidates at least in 5% (five percent) of the assembly constituencies in the State, subject to a minimum of three constituencies in States having forty or less seats;
- (ii) In the case of election on expiry of the normal term of the Legislative Assembly, the intimation with regard to its intention to contest election under sub-clause (i) is given by the party to the Commission at any time during the period commencing from the date six months prior to the date of expiry of the term of the Assembly and latest by five clear days before the date on which the notification (or the first of the notifications in the case of a phased election) of the election is scheduled to be issued;
- (iii) In the case of dissolution of the Legislative Assembly before the expiration of its normal term, the intimation with regard to its intention under sub-clause(i) is given by the party to the Commission at any time from the date of dissolution of the Legislative Assembly and latest by five clear days before the date on which the notification (or the first of the notifications in the case of a phased election) of the election is scheduled to be issued;
- (iv) The party shall give the names of ten symbols, in order of preference, from out of the list of free symbols notified by the Commission under paragraph 17 of this Order:

Provided that a party may, if it so desires, also propose three new symbols of their choice, with the names and clear design and drawings of symbol, in the order of preference, for allotment to its candidates, which the Commission may consider for allotment as its common symbol if there is, in its opinion, no objection in allotting such symbol:

Provided further that the symbols proposed by the parties shall have no resemblance to the existing reserved symbols or free symbols, nor shall have any religious or communal connotation or depict any bird or animal;

Provided also that no proposal for a new symbol shall be entertained by the Commission unless it is made at least three months before the date of expiry of term of the Assembly concerned, or within one month of the premature dissolution of the Assembly, as the case may be;

- (v) The party also gives an undertaking that if the party does not set up candidates in the minimum number of the constituencies as prescribed in condition (i) above, its candidates shall not be entitled to allotment of a common symbol on the date of allotment of symbols to them; and, in addition, the party shall be liable for such punitive action as the Commission may consider appropriate;
- (vi) The list containing the serial numbers and names of the constituencies where the party is setting up candidates is submitted to the Commission latest by 5 clear days before the date on which the notification (or first of the notifications in the case of a phased election) of the election is scheduled to be issued.

(B) At a general election to the House of the People –

- (i) The party sets up candidates at least in a minimum of two parliamentary constituencies in the State, in which it seeks allotment of a common symbol to its candidates;

- (ii) In the case of States with single parliamentary constituency, a party which applies for common symbol in terms of clause (i) above in another State, may also apply for allotment of the same symbol in such States with single parliamentary constituency;
- (iii) In the case of election on expiry of the normal term of the House of the People, the intimation with regard to its intention to contest election under sub-clauses(i) and (ii) is given by the party to the Commission at any time during the period commencing from the date six months prior to the date of expiry of the term of the House of the People and latest by five clear days before the date on which the notification (or the first of the notifications in the case of a phased election) of the election is scheduled to be issued;
- (iv) In the case of dissolution of the House of the People before the expiration of its normal term, the intimation with regard to its intention under sub-clauses (i) and (ii) is given by the party to the Commission at any time from the date of dissolution of the House of the People and latest by five clear days before the date on which the notification (or the first of the notifications in the case of a phased election) of the election is scheduled to be issued;
- (v) The party shall give the names of ten symbols, in order of preference, from out of the list of free symbols notified by the Commission under paragraph 17 of this Order; Provided that a party may, if it so desires, also propose three new symbols of their choice, with the names and clear design and drawings of symbol, in the order of preference, for allotment to its candidates, which the Commission may consider for allotment as its common symbol if there is, in its opinion, no objection in allotting such symbol;

Provided further that the symbols proposed by the parties shall have no resemblance to the existing reserved symbols or free symbols, nor shall have any religious or communal connotation or depict any bird or animal:

Provided also that no proposal for a new symbol shall be entertained by the Commission unless it is made at least three months before the date of expiry of term of the House of the People, or within one month of the premature dissolution of the House, as the case may be;

- (vi) The party also gives an undertaking that if the party does not set up candidates in the minimum number of the constituencies as prescribed in condition (i) above, its candidates shall not be entitled to allotment of a common symbol on the date of allotment of symbols to them; and, in addition, the party shall be liable for such punitive action as the Commission may consider appropriate
- (vii) The list containing the serial numbers and names of the constituencies where the party is setting up candidates is submitted to the Commission latest by 5 clear days before the date on which the notification (or first of the notifications in the case of a phased election) of the election is scheduled to be issued.

Explanation –

For the removal of doubt, it is hereby clarified that –

- (i) The concession of allotment of common symbol to the candidates of a registered unrecognized party under this paragraph shall be available to a party at any two general elections to the House of the People, or any two general elections to a State Legislative Assembly or at one general election to the House of the People and the other at a general election to a State Legislative Assembly, as the party may choose.

- (ii) A party that has availed of this concession on two occasions shall, however, be eligible for the concession in any subsequent general election subject to the condition that on the previous occasion when the party availed of the facility, the votes polled by all the contesting candidates set up by the party at the general election in the State concerned was not less than one percent of the total valid votes polled in that State.
- (iii) The free symbol allotted as a common symbol to the candidates of a party under this paragraph shall be available for allotment to candidates set up by the other parties or independent candidates in those other constituencies in which that party has not set up its candidates.
- (iv) Allotment of common symbol under this paragraph shall be done on 'first-come-first-served' basis: Provided that if applications of two or more parties giving preference for the same symbol are received in the Commission on the same date, then the question of allotment of the symbol to one of such parties shall be decided by draw of lots in such manner as may be directed by the Commission:

Provided further that if out of the two or more such parties giving preference for the same symbol whose applications are received on the same date, one party is such that it had been allotted the said symbol at the previous occasion in the State concerned and the other was not allotted that symbol in the previous election, then the symbol shall be allotted to the former:

Provided also that if out of the two or more such parties giving preference for the same symbol whose applications are received on the same date, both or all such parties had been allotted the said symbol on the previous occasion in the State concerned, and one among the parties is such that it has Member(s) elected to the House of the People or the Legislative Assembly of the State concerned on the symbol for which preference has been given by the party, then the symbol shall be allotted to that party to the exclusion of the other parties;

- (v) If it is not possible for the Commission for any reason to allot a common symbol to the candidates of a party from out of the list of symbols for which it has given its preference under this paragraph, some other symbol from the list of free symbols may be allotted to that party in consultation with that party;
- (vi) Notwithstanding anything contained in paragraph 10A, a political party which was earlier a recognized political party and which lost its recognition more than 6 years back will also be eligible under this paragraph to the concession of allotment of the symbol which was earlier reserved for the party, at a general election to the House of the People or to the Legislative Assembly of a State, held after expiry of six years since the party lost its recognition, subject to the fulfilment of each of the conditions specified under clause (A) or (B), as the case may be, except the condition in sub-clause (iv) of clause (A) and sub-clause (v) of clause (B)."

By Order,

**(VARINDER KUMAR)
SECRETARY
ELECTION COMMISSION OF INDIA**

**(D. Anandan, IAS)
Chief Electoral Officer, Sikkim**